

Exhibit E



Charles Carreon, Attorney at Law

[Redacted]

[Redacted]

Telephone: [Redacted]

Fax: [Redacted]

June 2, 2012

Via Personal Service

Matthew Inman

Seattle, WA

Re: FunnyJunk - TheOatmeal.com - Defamation and False Advertising

Dear Mr. Inman:

I represent FunnyJunk, LLC. ("FunnyJunk"), a competitor of TheOatmeal.com in the field of online humor. I write to demand immediate removal of false statements about FunnyJunk from TheOatmeal.com, where you posted the following:

Here's how FunnyJunk.com's business operates:

1. Gather funny pictures from around the internet
2. Host them on FunnyJunk.com
3. Slather them in advertising
4. If someone claims copyright infringement, throw your hands up in the air and exclaim "It was our users who uploaded your photos! We had nothing to do with it! We're innocent!"
5. Cash six figure advertising checks from other artist's stolen material

(Attachment A.)

This is a false accusation of willful copyright infringement. FunnyJunk hosts only user-uploaded content pursuant to a rigorous DMCA policy that includes termination as a sanction for repeat abusers. FunnyJunk takes immediate action on any DMCA notice it receives in the proper form. In addition to the above-quoted false statements, on the same webpage you say that FunnyJunk has "practically stolen my entire website and mirrored it on FunnyJunk." You illustrate this present-tense statement with a screencap that purports to be current, but in fact was taken long ago, and grossly misrepresents the current state of affairs. (Attachment A.)

Below this barrage of false statements, you posted a series of hyperlinks with this false statement as an introduction: "There's still hundreds of C&H comics hosted on FunnyJunk.com, as well as thousands from other artists...." Clicking on those hyperlinks turns up a null result in every case. (Attachment B.)

However, that string of apparently useless hyperlinks put the phrase "funnyjunk" into the source code for the page twenty-eight (28) times (Attachment C), thus causing TheOatmeal.com to come up whenever "funnyjunk" is punched into the Google search engine. (Attachment D.) The Alexa stats for TheOatmeal.com are equally revealing, showing that the "Query Popularity" of "funnyjunk" is 42, nearly as popular as "oatmeal" itself, at 44. (Attachment E.) Given your background in SEO, you clearly intended this result. (Attachment F.)

Your false statements, recorded in Attachment A, accuse FunnyJunk of engaging in willful copyright infringement for commercial advantage and financial gain, a federal felony. 17 U.S.C. § 506(a)(1)(A) and 18 U.S.C. § 2319(b). Your false statements injured FunnyJunk in its trade, business or profession. Your false statements were made with the explicit, malicious purpose you announced in the source code of the webpage, screencaptured on page 2 of Attachment B, and reproduced below:

By maliciously accusing FunnyJunk of criminal conduct to injure its business reputation, you exposed yourself to a lawsuit for defamation *per se*, in which damages are presumed. *Albert v. Loksen*, 239 F.3d 256, 272 (2nd Cir. 2001).

By publishing false statements about FunnyJunk to gain publicity, popularize TheOatmeal.com, and injure FunnyJunk's reputation in the marketplace, you engaged in false advertising in violation of the Lanham Trademark Act, 15 U.S.C. §1125(a)(B). FunnyJunk is therefore entitled to file a federal lawsuit against you for injunctive relief to compel the removal of the false statements from TheOatmeal.com. *McNeil-PCC, Inc. v. Bristol-Meyers Squibb Co.*, 938 F.2d 1544, 1549 (2nd Cir. 1991). FunnyJunk may also sue for enhanced damages and recovery of its attorneys fees under 15 U.S.C. §1117. *U-Haul Int. v. Jartran, Inc.*, 793 F.2d 1034, 1042 – 1043 (9th Cir. 1986) (upholding award of double damages

and attorneys fees under Sec. 1117 to unregistered markholder in action for false advertising). In a Lanham Act lawsuit, both judge and jury will presume that your false statements deceived Internet users. *Southland Sod Farms v. Stover Seed Co.*, 108 F.3d 1134, 1146 (9th Cir. 1997).

Accordingly, demand is hereby made upon you to perform the following remedial acts on or before June 12, 2012:

- Remove all mention of FunnyJunk and FunnyJunk.com from TheOatmeal.com from your website and any other website over which you have control.
- Deliver to me a check in the amount of \$20,000 payable to the order of FunnyJunk, LLC.

I look forward to your prompt response.

Very truly yours,



Charles Carreon
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Charles Carreon